

Canal Winchester

*Town Hall
10 North High Street
Canal Winchester, OH 43110*



Public Meeting Agenda

September 30, 2019

6:00 PM

City Council

*Bruce Jarvis – President
Mike Walker – Vice President
Jill Amos
Will Bennett
Bob Clark
Mike Coolman
Patrick Lynch*

A. Call To Order

B. Roll Call

C. Also In Attendance

Mayor Ebert, Matt Peoples

D. Items for Discussion

[ORD-19-053](#)

An Ordinance To Amend Section 331.44 Of The Codified Ordinances Of
The City Of Canal Winchester ([Ordinance](#))

E. Adjournment

ORDINANCE NO. 19-053

AN ORDINANCE TO AMEND SECTION 331.44 OF THE CODIFIED ORDINANCES OF THE CITY OF CANAL WINCHESTER

WHEREAS, the City of Canal Winchester recognizes the dangerous and increasing trend of distracted driving; and

WHEREAS, the City wishes to protect its residents, visitors, and children from injury caused by distracted driving; and

WHEREAS, texting while driving is currently only punishable in Canal Winchester as a secondary offense in addition to other charges;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO:

Section 1. That Section 331.44 of the Codified Ordinances of the City of Canal Winchester be amended to reflect the changes in the attached Exhibit A.

Section 2.

DATE PASSED _____

PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL

MAYOR

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

CLERK OF COUNCIL

331.44 SENDING, READING, OR WRITING A TEXT MESSAGE OR ACCESSING THE INTERNET WHILE DRIVING.

(a) As used in this section:

(1) “Text message” means any message sent, stored or received via mobile communication device. For the purpose of this section, an email message shall be considered a text message.

(2) “Electronic wireless communications device” means (a) a wireless telephone; (b) a text-messaging device; (c) a personal digital assistant; (d) a computer, including a laptop computer and a computer tablet; or (e) any other substantially similar wireless device that is designed or used to communicate text.

(3) “Emergency vehicles” and “public safety vehicles” shall have the same meaning as set forth in Ohio R.C. 4511.01(D) and (E).

(b) No person shall operate a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.

(c) Division (b) of this section shall not apply to any of the following:

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person’s duties;

(3) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel; ;

(4) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

(5) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving;;

(6) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(7) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(8) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle. “Voice-operated or hands-free device” means a device that allows the user to vocally compose or send, or to listen to

a text-based communication without the use of either hand except to activate or deactivate a feature or function.

(d) Whoever violates this section shall be guilty of a minor misdemeanor.

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ORDINANCE NO. 19-053

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WHEREAS, the City of Canal Winchester recognizes the dangerous and increasing trend of distracted driving; and

WHEREAS, the City wishes to protect its residents, visitors, and children from injury caused by distracted driving; and

WHEREAS, texting while driving is currently only punishable in Canal Winchester as a secondary offense in addition to other charges;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CANAL WINCHESTER, OHIO:

Section 1. That Section 331.44 of the Codified Ordinances of the City of Canal Winchester be amended to reflect the changes in the attached Exhibit A.

Section 2.

DATE PASSED _____
PRESIDENT OF COUNCIL

ATTEST _____
CLERK OF COUNCIL MAYOR

APPROVED AS TO FORM:

LEGAL COUNSEL

I hereby certify that the ordinance as set forth above was published for a period of not less than fifteen days after passage by the Council, by posting a copy thereof in not less than three (3) public places in the municipal corporation, as determined by Council and as set forth in the Canal Winchester Charter.

CLERK OF COUNCIL

331.44 SENDING, READING, OR WRITING A TEXT MESSAGE OR ACCESSING THE INTERNET WHILE DRIVING.

(a) As used in this section:

(1) "Text message" means any message sent, stored or received via mobile communication device. For the purpose of this section, an email message shall be considered a text message.

(2) ~~"Mobile communication device"~~ Electronic wireless communications device means (a) a wireless telephone; (b) a text-messaging device; (c) a personal digital assistant; (d) a computer, including a laptop computer and a computer tablet; or (e) any other substantially similar wireless device that is designed or used to communicate text. ~~any portable electronic device capable of transmitting or receiving data in the form of a text message or capable of accessing the internet including but not limited to a wireless telephone, a text messaging device, a personal digital assistant, or a personal computer, but specifically excluding portable internet based vehicle navigation systems being used for that purpose.~~

(3) "Emergency vehicles" and "public safety vehicles" shall have the same meaning as set forth in Ohio R.C. 4511.01(D) and (E).

(b) No person shall operate a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device. ~~mobile communication device to:~~

~~—— (1) Manually enter letters, numbers, or text messages or read any received emails or text messages transmitted to or stored within such device; or~~

~~—— (2) Send, read, create, or interact with internet-based content, play games or otherwise interact with the internet.~~

(c) Division (b) This provision of this section shall not apply to any of the following:

(1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity; Operators of emergency or public safety vehicles where the operator of a public safety device uses such device in the course of the operator's official duties;

(2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;

~~(3) Any person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel; reporting a health or safety emergency;~~

(4) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic, or weather alerts; or data used primarily by the motor vehicle;

Commented [HEL1]: The over-18 version of state law only prohibits using a device "to write, send, or read a text-based communication" and then exempts telephone calls, as Bruce has noted, which would defeat the purpose of an "hands free" ordinance approach that prohibits both texting and cell phone calls (unless done in a hands free manner).

~~(5) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving; Drivers parked, standing or stopped or removed from the flow of traffic, or stopped due to an inoperable vehicle;~~

(6) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;

(7) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;

(8) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle. "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate or deactivate a feature or function.

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~~(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (d) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.~~

~~(e) Whoever violates this section shall be guilty of a minor misdemeanor.~~

~~(Ord. 30-10. Passed 8-16-10.)~~